

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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FRANK H. FINKEL, JOSEPH A. FERRARA, Sr.,
LYNN MOUREY, THOMAS N. PIALI, MARC
HERBST, GARY LA BARBERA, THOMAS,
GESUALDI, LOUIS BISIGNANO, and
ANTHONY PIROZZI, as Trustees and Fiduciaries
of the Local 282 Welfare Trust Fund, the Local 282
Pension Trust Fund, the Local 282 Annuity Trust
Fund, the Local 282 Job Training Trust Fund, and
the Local 282 Vacation and Sick Leave Trust Fund,

Plaintiffs,

-against-

BLACK TRUCK, INC., EBANKS
CONSTRUCTION CORP., KAREEM EBANKS,
LAKUAN BANKS,

Defendants.

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APPEARANCES:

Cohen, Weiss and Simon, LLP

Attorneys for the Plaintiffs

330 West 42nd Street

New York, NY 10036

By: Elizabeth O'Leary, Esq.

Oriana Vigliotti, Esq., Of Counsel

NO APPEARANCES:

Defendants Black Truck, Inc., Ebanks Construction Corp., Kareem Ebanks, and
Lakuan Ebanks

SPATT, District Judge.

**MEMORANDUM OF
DECISION AND ORDER
07-CV-3951 (ADS)(MLO)**

On October 29, 2008, the Court referred this matter to United States Magistrate Judge Michael L. Orenstein for a report and recommendation as to the amount of damages to be awarded following the entry of a default judgment against the Defendants Black Truck, Inc., Ebanks Construction Corp., Kareem Ebanks, and Lakuan Ebanks. Following the presentation of evidence, Judge Orenstein dictated a Report into the record recommending that the Plaintiffs be awarded: (1) damages in the amount of \$462,387.53 plus interest from December 11, 2008 through the date of the entry of judgment; (2) attorneys' fees in the amount \$11,885.25; (3) taxable costs to be calculated by the Clerk of the Court upon a certificate of taxable costs by the Plaintiff; and (4) a reimbursement of \$350. To date, there have been no objections filed to Judge Orenstein's Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Orenstein's Report and finds it to be persuasive and without any legal or factual errors. There being no objection to Judge Orenstein's Report, it is hereby

ORDERED, that Judge Orenstein's Report and Recommendation is adopted in its entirety, and it is further

ORDERED, that the Clerk of the Court is directed to enter a judgment against the Defendants Black Truck, Inc., Ebanks Construction Corp., Kareem Ebanks, and Lakuan Ebanks in the amount of: (1) \$462,387.53 plus interest from December 11, 2008 through the date of the entry of judgment; (2) \$11,885.25 in attorneys' fees; (3) \$350 in disbursements; and (4) taxable costs to be calculated by the Clerk of the Court, and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
June 8, 2009

/s/ Arthur D. Spatt
Arthur D. Spatt
United States District Judge